

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of A.A., G.A., and L.I.,)	(Not For Official Publication)
persons under eighteen years)	
of age.)	Case No. 20050880-CA
_____)	
)	
M.C.,)	F I L E D
)	(January 20, 2006)
Appellant,)	
)	2006 UT App 17
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Tooele Department, 150780
The Honorable C. Dane Nolan

Attorneys: David J. Angerhofer, Sandy, for Appellant
Mark L. Shurtleff and Carol L.C. Verdoia, Salt Lake
City, for Appellee
Martha Pierce and James R. Michie Jr., Salt Lake
City, Guardians Ad Litem

Before Judges Bench, Billings, and Thorne.

PER CURIAM:

M.C. appeals the juvenile court's termination of her parental rights in A.A., G.A., and L.I. M.C argues that there was insufficient evidence to support the termination order.

In reviewing the termination of parental rights, this court "will not disturb the juvenile court's findings and conclusions unless the evidence clearly preponderates against the findings as made or the court has abused its discretion." In re D.B., 2002 UT App 314, ¶6, 57 P.3d 1102.

The juvenile court found that termination was justified under five of the grounds enumerated under section 78-3a-407(1). See Utah Code Ann. § 78-3a-407(1) (Supp. 2005). Specifically, the court found that termination was appropriate due to M.C.'s:

(1) abuse and neglect of the children; (2) unfitness or incompetency as a parent; (3) unwillingness to remedy the circumstances that caused the children to be in an out-of-home placement and a substantial likelihood that she will not be capable of exercising proper and effective parental care in the near future; (4) failure of parental adjustment; and (5) failure to give care to the children after return to the home. See id. § 78-3a-407(1)(b)-(e), (h). Any single ground is sufficient to terminate parental rights. See id. § 78-3a-407(1) (providing court may terminate parental rights if it finds "any one of" the listed grounds); In re D.B., 2002 UT App 314 at ¶13 n.4.

Although M.C. does not identify which ground for termination specifically lacks evidentiary support, we have reviewed the record and find sufficient evidence to support termination.

For instance, the juvenile court found that M.C. abused or neglected the children. See Utah Code Ann. § 78-3a-407(1)(b). Utah Code section 78-3a-103(a) defines an "abused child" as one who "has suffered or been threatened with nonaccidental physical or mental harm, negligent treatment, or sexual exploitation." Utah Code Ann. § 78-3a-103(1)(a)(i) (Supp. 2005). The evidence supports the juvenile court's determination that each of the children suffered physical or mental harm while in the care and custody of M.C.

In addition, under section 78-3a-407(1)(d), grounds for termination exist where

the minor is being cared for in an out-of-home placement under the supervision of the court or the division; . . . the parent has substantially neglected, wilfully refused, or has been unable or unwilling to remedy the circumstances that cause the minor to be in an out-of-home placement; and . . . there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future.

Id. § 78-3a-407(1)(d). Here, the children were in an out-of-home placement under Division of Child and Family Services supervision on more than one occasion. Although her efforts led the juvenile court to afford M.C. trial home placement, M.C. simply failed to address the issues that led to the removal of her children, particularly physical abuse. Indeed, removal was required once again within a few months. Additionally, based on her lack of follow-through in addressing various issues, the record reveals that there was a substantial likelihood that M.C. would not be able to effectively parent in the near future. The evidence is

sufficient to establish grounds for termination under this subsection, as well.

Thus, the record supports the juvenile court's findings of grounds for termination of M.C.'s parental rights. Accordingly, the juvenile court order is affirmed.

Russell W. Bench,
Presiding Judge

Judith M. Billings, Judge

William A. Thorne Jr., Judge